



+ [Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2013-0022]

Petition Requesting a Ban or Standard on Adult Portable Bed Rails

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) has received two requests, asking that the Commission initiate proceedings under section 8 of the Consumer Product Safety Act (CPSA) to determine that adult portable bed rails pose an unreasonable risk of injury and initiate related rulemaking under section 9 of the CPSA. Because both requests ask for rulemaking concerning the same product, CPSC is considering the requests as a single petition (CP13-1). The Commission invites written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by [insert date 60 days after publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2013-0022, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>... Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (e-mail), except through www.regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: <http://www.regulations.gov>, and insert the docket number, CPSC-2013-0022, into the “Search” box, and follow the prompts. A copy of the petition is available at <http://www.regulations.gov> under Docket No. CPSC-2013-0022, Supporting and Related Materials.

FOR FURTHER INFORMATION CONTACT: Rockelle Hammond, Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-6833.

SUPPLEMENTARY INFORMATION: The Commission received two requests to initiate proceedings under section 8 of the Consumer Product Safety Act (CPSA) to determine that adult portable bed rails pose an unreasonable risk of injury and initiate related rulemaking under section 9 of the CPSA. *See* 15 U.S.C. 2057 and 2058. Gloria

Black, the Consumer Federation of America, and 60 other organizations (Consumer Group) made one request; Public Citizen made the other request (collectively referred to as petitioners). The CPSC has docketed the requests as a single petition.

Petitioners assert that adult portable bed rails currently on the market are responsible for many injuries and deaths among users, particularly the elderly and frail. Petitioners state that many of these deaths result from asphyxiation caused by entrapment within openings of the rail or between the rail and the mattress or bed frame. In addition, petitioners claim that individuals who attempt to climb over bed rails may be at greater risk of injury or death than they would be if no rail were used at all. In support of their request, petitioners cite a CPSC memorandum dated October 11, 2012, “Adult Portable Bed Rail-Related Deaths, Injuries, and Potential Injuries: January 2003 to September 2012.” According to petitioners, the CPSC’s data showed that there were 155 fatalities, of which 129 involved victims ages 60 years and over; most of the fatalities related to rail entrapment. In addition, petitioners state that the CPSC found an estimated 36,900 adult portable bed rail-related injuries that were treated in U.S. hospital emergency departments from January 2003 to December 2011.

Petitioners request that the CPSC initiate proceedings under section 8 of the CPSA that would ban all adult portable bed rails because, they assert, the product presents an unreasonable risk of injury and no feasible consumer product safety standard would adequately protect the public from these products. Public Citizen contends that no mandatory standard or warnings could be developed that would adequately protect against the hazards presented by adult portable bed rails. The Consumer Group, however, states that if the CPSC does not pursue a ban, the Commission should initiate a

rulemaking to promulgate mandatory standards under section 9 of the CPSA, to reduce the unreasonable risk of asphyxiation and the entrapment hazards posed by adult portable bed rails, and to include warning labels in the standards. The Consumer Group also requests action under section 27(e) of the CPSA to require manufacturers of adult portable bed rails to provide performance and technical data regarding the safety of their products.

In addition, petitioners request a public recall notice and refund for all adult portable bed rails under section 15 of the CPSA. However, the Commission may docket as petitions only requests for action that the Commission is authorized to take through the issuance, amendment, or revocation of rules. 16 CFR 1051.2(a). Accordingly, the recall and refund requested by petitioners are outside the scope of a rulemaking proceeding and will be forwarded to the CPSC Office of Compliance and Field Operations for review.

By this notice, the Commission seeks comments concerning this petition. Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923. A copy of the petition also will be made available for viewing under “Supporting and Related Materials” in www.regulations.gov under this docket number. www.regulations.gov.

Dated: May 29, 2013

Todd A. Stevenson, Secretary
U.S. Consumer Product Safety Commission

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